

Appl. No. 09/847,853
Atty. Docket No. 8552
Amdt. dated June 12, 2006
Reply to Office Action of February 10, 2006
Customer No. 27752

REMARKS

Claim Status

Claims 1 - 38 are pending in the present application. No additional claims fee is believed to be due. Claims 35, 37 and 38 are canceled without prejudice. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Claim Objections

The Office Action objected to Claim 6 under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. According to the Office Action, Claim 6 provides no limitations that have not been previously established in claim 1 from which it depends and Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Applicant respectfully traverses the objection of claim 6. Although Claims 1 and 6 both recite a "research module" communicating with a "panelist". Claim 6 further limits claim 1 by claiming the research module is in "selective" communication with the panelist and is configured to provide "direct" interfacing with a panelist. Claim 1 does not claim the research module as having "selective" communication and "direct" interface with the panelist.

Claim Rejections Under 35 U.S.C §101

The Office Action rejects Claims 1-21 and 35 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. According to the Office Action, Claims 1, 14 and 35 are directed towards a computer program per se, which is considered functional descriptive material and therefore is not patentable (See MPEP 2106(JV)(B)(1)(a)). Claims 2-13 and 15-21 suffer from the same deficiencies.

Applicant respectfully traverses this rejection. Claim 35 has been canceled per this response. Claims 1 and 14 are directed to in channel marketing and product testing systems comprising, inter alia, a purchase environment module, a panelist interface module and a research module. Each module comprises a structural component which

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one skilled in the art would recognize as computer hardware linked via communications hardware well known in the art (i.e. Ethernet, telephone modem, cables etc.) Consequently, the claims 1 and 14 and claims 2-13 and 15-21 depending therefrom constitute patentable subject matter.

The Office Action also rejects claims 37 and 38 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 37 and 38 have been canceled per this response

Rejection Under 35 U.S.C § 112, First Paragraph

The Office Action rejects Claims 1-6 and 14, 19, and 21 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 14 are directed to a "system" in the preamble; however, the steps in the body of the claim fail to add any structure to the system. The steps are directed towards "modules" and "interfaces", which are programs per se and not structural components.

Applicant respectfully traverses this Rejection. Claims 1 and 14 are directed to in-channel marketing and product testing systems comprising, inter alia, a purchase environment module, an panelist interface module and a research module. Each module comprises a structural component which one skilled in the art would recognize as computer hardware linked via communications hardware well known in the art (ie. Ethernet, telephone modem, cables etc.) Consequently, the claims 1 and 14 as well as the claims depending therefrom are not indefinite.

Also, according to the Office Action, Claims 37 and 38 claim a data structure but there is no a data structure contained in the body of the claim. A data structure is "a physical or logical relationship among data elements, designed to support specific data manipulation functions" (See MPEP 2106(IV)(B)(1)). Claims 37 and 38 have been canceled per this response.

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Rejection Under 35 U.S.C § 102(b) Over U.S. Patent No. 6,058,373 issued to Blinn, et al.

(referred to hereinafter as "Blinn")

According to the Office Action, claims 1-38 are anticipated by Blinn. For instance with regards to claim 1, the Office Action states "Blinn discloses an in-channel marketing and product testing system comprising:

a. A purchase environment module having instructions for generating a virtual purchase environment comprising a plurality of competitive products. (Col. 12, line 63 through Col. 13, line 34)

b. A panelist interface module configured to receive panelist input from a panelist interface, said panelist interface module arranged in selective communication with said purchase environment module and configured to receive and display said virtual purchase environment. (Col 13, line 35 through Col 14, line 25)

c. A research module in communication with said panelist interface, the research module configured to allow dynamic control and manipulation of the virtual purchase environment, and configured to receive panelist input from said panelist interface module. (Col. 15, line 48 through Col 17, line 35).

Applicant respectfully traverses the rejection of claims 1-38 for being anticipated by Blinn. In order to anticipate a claim, the reference must teach every element of the claim. MPEP §2131. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP §2131 citing *Verdegaal Bros. V. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Blinn discloses a method and system for processing electronic sales transactions. The system allows merchants to create electronic orders which are easily adaptable for different sales situations. Contrary to the Office Action, Blinn does not teach or suggest an in-channel marketing and product testing system comprising a purchase environment module having instructions for generating a virtual purchase environment comprising a plurality of competitive products. The Office alleges that column 12, line 63 through Column 13, line 34 provides such teaching, but nowhere in the section cited is a virtual purchase environment described. Further, contrary to the Office Action, Blinn does not

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teach or suggest a research module in communication with said panelist interface, wherein the research module configured to allow dynamic control and manipulation of the virtual purchase environment, and configured to receive panelist input from said panelist interface module. Therefore, claim 1 is not anticipated by Blinn. In addition, for the same aforementioned reasons, claims 2-38 are not anticipated by Blinn. Consequently, claims 1-38 are patentable over Blinn.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C 101, 35 U.S.C. 112, and 35 U.S.C. 102(b). Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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By


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